

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

DAVID DAWSON, as Trustee, etc.,

Plaintiff and Appellant,

v.

CITY OF FRESNO,

Defendant and Respondent.

F066234

(Super. Ct. No. 12CECG00761)

**OPINION**

**THE COURT\***

APPEAL from an order of the Superior Court of Fresno County. Debra J. Kazanjian, Judge.

David Dawson, in pro. per., for Plaintiff and Appellant.

No appearance for Defendant and Respondent.

-ooOoo-

---

\* Before Wiseman, Acting P.J., Cornell, J. and Kane, J.

## **STATEMENT OF THE CASE AND FACTS**

Appellant, David Dawson, as Trustee in pro. per., filed a Petition for Writ of Mandamus and Order to Show Cause in the Fresno County Superior Court naming as defendant City of Fresno. The petition concerned the issuance of various administrative citations to appellant regarding violations of the City of Fresno Municipal Code. The City of Fresno filed an answer and a demurrer. On September 11, 2012, the superior court sustained the demurrer without leave to amend. Appellant filed a notice of appeal from the order sustaining the demurrer without leave to amend on November 7, 2012. According to the Fresno County Superior Court docket, no final judgment has been entered.

This court issued a briefing order granting appellant time to explain why this court should not dismiss his appeal for lack of a judgment or appealable order. Appellant submitted a letter brief arguing the merits of the appeal. The letter brief failed to address the issue of appealability.

## **DISCUSSION**

An order sustaining a demurrer, whether with or without leave to amend, is not appealable; appeal is proper only after entry of a dismissal on such an order. (*Sisemore v. Master Financial, Inc.* (2007) 151 Cal.App.4th 1386, 1396.)

The appeal in the above entitled action is dismissed on the ground appellant attempts to appeal from an order sustaining a demurrer without leave to amend. Such an order is not appealable and this court declines to deem the order to incorporate a judgment of dismissal. Appeal is proper only after entry of a judgment of dismissal. (*Sisemore v. Master Financial, Inc.*, *supra*, 151 Cal.App.4th at p. 1396.)

## **DISPOSITION**

The appeal in the above entitled action is dismissed as taken from a nonappealable order. Appellant's remedy is to secure a final judgment and to file a timely notice of appeal from the judgment.